

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

MICKEL G. HOBACK,)	
)	
Plaintiff,)	
)	1:10-cv-74
v.)	<i>Collier / Lee</i>
)	
CITY OF CHATTANOOGA,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

Plaintiff, Mickel G. Hoback, received a jury verdict on his claims asserted under the Americans with Disabilities Act and Rehabilitation Act against Defendant, City of Chattanooga. Following the jury verdict in his favor, Plaintiff filed a motion for an award of attorneys' fees and costs in the total amount of \$119,351.49 [Doc. 66].¹ There is also pending a motion for judgment as a matter of law or, in the alternative, for a new trial filed by Defendant [Doc. 74], which could impact whether Plaintiff remains the prevailing party.

After a series of consultations and pleadings concerning the motion for an award of fees and costs [*see* Docs. 67, 69, 73, 82, 83, 84, & 85], the parties have stipulated to the following relevant findings and fact and conclusions of law to resolve the motion:

- Costs in the amount of \$1,471.49 are reasonable provided Plaintiff is ultimately

¹ The motion for attorneys' fees was referred pursuant to 28 U.S.C. § 636(b)(3) [Doc. 68].

found to be the prevailing party;

- 11.8 hours of work performed at a rate of \$175.00 per hour by David Lawrence for a total of \$2,065.00 is reasonable provided Plaintiff is ultimately found to be the prevailing party;
- 85.6 hours of work performed between August 24, 2011 and September 15, 2011 at a rate of \$315.00 per hour by Michael E. Richardson for a total of \$26,964.00 is reasonable provided Plaintiff is ultimately found to be the prevailing party; and
- 225.2 hours of work performed at a rate of \$315.00 per hour by Phillip E. Lawrence for a total of \$70,938.00 is reasonable provided Plaintiff is ultimately found to be the prevailing party.

[Doc. 85].

Plaintiff is currently the prevailing party with respect to the fees claimed above and will remain so in this Court unless Defendant's pending motion for judgment as a matter of law or, in the alternative, motion for a new trial [Doc. 74] is granted. Given the parties' stipulation and the current record, I **RECOMMEND**² that Plaintiff's motion for attorneys' fees and costs [Doc. 66] be **GRANTED** and that Plaintiff be awarded costs in the amount of \$1,471.49 and attorneys' fees in

² Any objections to this report and recommendation must be served and filed within fourteen (14) days after service of a copy of this recommended disposition on the objecting party. Such objections must conform to the requirements of Rule 72(b) of the Federal Rules of Civil Procedure. Failure to file objections within the time specified waives the right to appeal the district court's order. *Thomas v. Arn*, 474 U.S. 140, 149 n.7 (1985). The district court need not provide *de novo* review where objections to this report and recommendation are frivolous, conclusive and general. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986). Only specific objections are reserved for appellate review. *Smith v. Detroit Fed'n of Teachers*, 829 F.2d 1370, 1373 (6th Cir. 1987).

the amount of \$99,967.00, for a total award of **\$101,438.49**, *unless* Defendant's pending motion for judgment as a matter of law or, in the alternative, for a new trial is granted such that Plaintiff is no longer the prevailing party [Doc. 74].

s/ Susan K. Lee
SUSAN K. LEE
UNITED STATES MAGISTRATE JUDGE